

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION

KEITH R. MAYES, SR., et al.,       )  
  )  
Plaintiffs,                               )  
  )  
                  v.                        ) NO. 1:09-0047  
  )  
UNITED STATES MARSHALS, et al.,    ) Judge Haynes/Bryant  
  )  
Defendants.                                )

**TO: The Honorable William J. Haynes, Jr.**

**REPORT AND RECOMMENDATION**

On December 18, 2009, the undersigned Magistrate Judge issued an order to show cause requiring plaintiffs to respond on or before January 15, 2010, and to show why this case should not be dismissed for plaintiffs' failure to obtain service of process on defendants (Docket Entry No. 6). This order admonished plaintiffs that their failure to respond may cause the undersigned Magistrate Judge to recommend that their complaint be dismissed.

Despite this order, plaintiffs have failed to respond and the record indicates that no service of process has been obtained on any defendant. Moreover, insofar as the record shows, there has been no activity in this case for over one year.

For the reasons stated above, the undersigned Magistrate Judge finds that the complaint should be dismissed pursuant to Federal Rules of Civil Procedure 4(m) for failure to obtain service of process on defendants and for failure to prosecute.

### **RECOMMENDATION**

For the reasons stated above, the undersigned Magistrate Judge **RECOMMENDS** that the complaint be **DISMISSED** without prejudice for failure to obtain service of process on defendants and for failure to prosecute.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

**ENTERED** this 9th day of June, 2011.

s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge